

E AND R AMENDMENTS TO LB 895

Introduced by Enrollment and Review Committee: McGill, 26,  
Chairperson

1           1. Strike the original sections and all amendments  
2 thereto and insert the following new sections:

3           Section 1. Section 77-27,187.01, Revised Statutes  
4 Supplement, 2007, is amended to read:

5           77-27,187.01 For purposes of the Nebraska Advantage Rural  
6 Development Act, unless the context otherwise requires:

7           (1) Any term has the same meaning as used in the Nebraska  
8 Revenue Act of 1967;

9           (2) Equivalent employees means the number of employees  
10 computed by dividing the total hours paid in a year to employees by  
11 the product of forty times the number of weeks in a year;

12           (3) Livestock means all animals, including cattle,  
13 horses, sheep, goats, hogs, chickens, turkeys, and other species  
14 of game birds and animals raised and produced subject to permit  
15 and regulation by the Game and Parks Commission or the Department  
16 of Agriculture;

17           (4) Livestock modernization or expansion means the  
18 construction, improvement, or acquisition of buildings, facilities,  
19 or equipment for livestock housing, confinement, feeding,  
20 production, and waste management. Livestock modernization or  
21 expansion does not include any improvements made to correct a  
22 violation of the Environmental Protection Act, the Integrated Solid  
23 Waste Management Act, the Livestock Waste Management Act, a rule

1 or regulation adopted and promulgated pursuant to such acts, or  
2 any order of the Department of Environmental Quality undertaken  
3 within five years after a complaint issued from the Director of  
4 Environmental Quality under section 81-1507;

5           (5) Livestock production means the active use,  
6 management, and operation of real and personal property for the  
7 commercial production of livestock, for the commercial breeding,  
8 training, showing, or racing of horses, or for the use of horses  
9 in a recreational or tourism enterprise. The activity will be  
10 considered commercial if the gross income derived from an activity  
11 for two or more of the taxable years in the period of seven  
12 consecutive taxable years which ends with the taxable year exceeds  
13 the deductions attributable to such activity or, if the operation  
14 has been in existence for less than seven years, if the activity is  
15 engaged in for the purpose of generating a profit;

16           (6) Qualified employee leasing company means a company  
17 which places all employees of a client-lessee on its payroll and  
18 leases such employees to the client-lessee on an ongoing basis  
19 for a fee and, by written agreement between the employee leasing  
20 company and a client-lessee, grants to the client-lessee input into  
21 the hiring and firing of the employees leased to the client-lessee;

22           (7) Related taxpayers includes any corporations that are  
23 part of a unitary business under the Nebraska Revenue Act of 1967  
24 but are not part of the same corporate taxpayer, any business  
25 entities that are not corporations but which would be a part of  
26 the unitary business if they were corporations, and any business  
27 entities if at least fifty percent of such entities are owned by

1 the same persons or related taxpayers and family members as defined  
2 in the ownership attribution rules of the Internal Revenue Code of  
3 1986, as amended;

4 (8) Taxpayer means a corporate taxpayer or other person  
5 subject to either an income tax imposed by the Nebraska Revenue  
6 Act of 1967 or a franchise tax under Chapter 77, article 38, or a  
7 partnership, limited liability company, subchapter S corporation,  
8 cooperative, including a cooperative exempt under section 521 of  
9 the Internal Revenue Code of 1986, as amended, limited cooperative  
10 association, or joint venture that is or would otherwise be a  
11 member of the same unitary group if incorporated, which is,  
12 or whose partners, members, or owners representing an ownership  
13 interest of at least ninety percent of the control of such  
14 entity are, subject to or exempt from such taxes, and any other  
15 partnership, limited liability company, subchapter S corporation,  
16 cooperative, including a cooperative exempt under section 521 of  
17 the Internal Revenue Code of 1986, as amended, limited cooperative  
18 association, or joint venture when the partners, members, or owners  
19 representing an ownership interest of at least ninety percent of  
20 the control of such entity are subject to or exempt from such  
21 taxes; and

22 (9) Year means the taxable year of the taxpayer.

23 Sec. 2. Section 77-27,187.02, Revised Statutes  
24 Supplement, 2007, is amended to read:

25 77-27,187.02 (1) To earn the incentives set forth in the  
26 Nebraska Advantage Rural Development Act, the taxpayer shall file  
27 an application for an agreement with the Tax Commissioner.

1           (2) The application shall contain:

2           (a) A written statement describing the full expected  
3 employment or type of livestock production and the investment  
4 amount for a qualified business, as described in section 77-27,189,  
5 in this state;

6           (b) Sufficient documents, plans, and specifications as  
7 required by the Tax Commissioner to support the plan and to define  
8 a project; and

9           (c) An application fee of five hundred dollars. The fee  
10 shall be remitted to the State Treasurer for credit to the Nebraska  
11 Advantage Rural Development Fund, which fund is hereby created. Any  
12 money in the fund available for investment shall be invested by the  
13 state investment officer pursuant to the Nebraska Capital Expansion  
14 Act and the Nebraska State Funds Investment Act. The application  
15 and all supporting information shall be confidential except for the  
16 name of the taxpayer, the location of the project, and the amounts  
17 of increased employment or investment.

18           (3) (a) The Tax Commissioner shall approve the application  
19 and authorize the total amount of credits expected to be earned as  
20 a result of the project if he or she is satisfied that the plan in  
21 the application defines a project that (i) meets the requirements  
22 established in section 77-27,188 and such requirements will be  
23 reached within the required time period and (ii) for projects other  
24 than livestock modernization or expansion projects, is located in  
25 an eligible county, city, or village. ~~or enterprise zone.~~

26           (b) The Tax Commissioner shall not approve further  
27 applications once the expected credits from the approved projects

1 total two million five hundred thousand dollars in each of fiscal  
2 years 2004-05 and 2005-06, ~~and~~ three million dollars in each of  
3 fiscal year years 2006-07 through 2008-09, and four million dollars  
4 in fiscal year 2009-10 and each fiscal year thereafter. Four  
5 hundred dollars of the application fee shall be refunded to the  
6 applicant if the application is not approved because the expected  
7 credits from approved projects exceed such amounts.

8 (c) Applications for benefits shall be considered in the  
9 order in which they are received.

10 (d) Applications shall be filed by November 1 and shall  
11 be complete by December 1 of each calendar year. Any application  
12 that is filed after November 1 or that is not complete on December  
13 1 shall be considered to be filed during the following calendar  
14 year.

15 (4) After approval, the taxpayer and the Tax Commissioner  
16 shall enter into a written agreement. The taxpayer shall agree  
17 to complete the project, and the Tax Commissioner, on behalf of  
18 the State of Nebraska, shall designate the approved plans of the  
19 taxpayer as a project and, in consideration of the taxpayer's  
20 agreement, agree to allow the taxpayer to use the incentives  
21 contained in the Nebraska Advantage Rural Development Act up to  
22 the total amount that were authorized by the Tax Commissioner  
23 at the time of approval. The application, and all supporting  
24 documentation, to the extent approved, shall be considered a part  
25 of the agreement. The agreement shall state:

26 (a) The levels of employment and investment required by  
27 the act for the project;

1 (b) The time period under the act in which the required  
2 level must be met;

3 (c) The documentation the taxpayer will need to supply  
4 when claiming an incentive under the act;

5 (d) The date the application was filed; and

6 (e) The maximum amount of credits authorized.

7 Sec. 3. Section 77-27,188, Revised Statutes Supplement,  
8 2007, is amended to read:

9 77-27,188 (1) A refundable credit against the taxes  
10 imposed by the Nebraska Revenue Act of 1967 shall be allowed to any  
11 taxpayer who has an approved application pursuant to the Nebraska  
12 Advantage Rural Development Act, who is engaged in a qualifying  
13 business as described in section 77-27,189, and who after January  
14 1, 2006:

15 (a)(i) Increases employment by two new equivalent  
16 employees and makes an increased investment of at least one hundred  
17 twenty-five thousand dollars prior to the end of the first taxable  
18 year after the year in which the application was submitted in  
19 (A) any county in this state with a population of fewer than  
20 fifteen thousand inhabitants, according to the most recent federal  
21 decennial census, ~~or in any designated enterprise zone pursuant to~~  
22 42 U.S.C. 11501 ~~or the Enterprise Zone Act;~~ (B) any village in this  
23 state, or (C) any area within the corporate limits of a city of  
24 the metropolitan class consisting of one or more contiguous census  
25 tracts, as determined by the most recent federal decennial census,  
26 which contain a percentage of persons below the poverty line of  
27 greater than thirty percent, and all census tracts contiguous to

1 such tract or tracts; or

2 (ii) Increases employment by five new equivalent  
3 employees and makes an increased investment of at least two hundred  
4 fifty thousand dollars prior to the end of the first taxable year  
5 after the year in which the application was submitted in any county  
6 in this state with a population of less than twenty-five thousand  
7 inhabitants, according to the most recent federal decennial census,  
8 or any city of the second class; and

9 (b) Pays a minimum qualifying wage of eight dollars and  
10 twenty-five cents per hour to the new equivalent employees for  
11 which tax credits are sought under the Nebraska Advantage Rural  
12 Development Act. The Department of Revenue shall adjust the minimum  
13 qualifying wages required for applications filed after January 1,  
14 2004, and each January 1 thereafter, as follows: The current rural  
15 Nebraska average weekly wage shall be divided by the rural Nebraska  
16 average weekly wage for 2003; and the result shall be multiplied by  
17 the eight dollars and twenty-five cents minimum qualifying wage for  
18 2003 and rounded to the nearest one cent. The amount of increase  
19 or decrease in the minimum qualifying wages for any year shall  
20 be the cumulative change in the rural Nebraska average weekly  
21 wage since 2003. For purposes of this subsection, rural Nebraska  
22 average weekly wage means the most recent average weekly wage paid  
23 by all employers in all counties with a population of less than  
24 twenty-five thousand inhabitants as reported by October 1 by the  
25 Department of Labor.

26 For purposes of this section, a teleworker working in  
27 Nebraska from his or her residence for a taxpayer shall be

1 considered an employee of the taxpayer, and property of the  
2 taxpayer provided to the teleworker working in Nebraska from his  
3 or her residence shall be considered an investment. Teleworker  
4 includes an individual working on a per-item basis and an  
5 independent contractor working for the taxpayer so long as the  
6 taxpayer withholds Nebraska income tax from wages or other payments  
7 made to such teleworker. For purposes of calculating the number  
8 of new equivalent employees when the teleworkers are paid on a  
9 per-item basis or are independent contractors, the total wages or  
10 payments made to all such new employees during the year shall be  
11 divided by the qualifying wage as determined in subdivision (b) of  
12 this subsection, with the result divided by two thousand eighty  
13 hours.

14 (2) A refundable credit against the taxes imposed by the  
15 Nebraska Revenue Act of 1967 shall be allowed to any taxpayer who  
16 (a) has an approved application pursuant to the Nebraska Advantage  
17 Rural Development Act, (b) is engaged in livestock production, and  
18 (c) after January 1, 2007, invests at least fifty thousand dollars  
19 for livestock modernization or expansion.

20 (3) The amount of the credit allowed under subsection  
21 (1) of this section shall be three thousand dollars for each new  
22 equivalent employee and two thousand seven hundred fifty dollars  
23 for each fifty thousand dollars of increased investment. The amount  
24 of the credit allowed under subsection (2) of this section shall  
25 be ten percent of the investment, not to exceed a credit of  
26 thirty thousand dollars. For each application, a taxpayer engaged  
27 in livestock production may qualify for a credit under either

1 subsection (1) or (2) of this section, but cannot qualify for more  
2 than one credit per application.

3 (4) An employee of a qualified employee leasing company  
4 shall be considered to be an employee of the client-lessee for  
5 purposes of this section if the employee performs services for the  
6 client-lessee. A qualified employee leasing company shall provide  
7 the Department of Revenue access to the records of employees leased  
8 to the client-lessee.

9 (5) The credit shall not exceed the amounts set out in  
10 the application and approved by the Tax Commissioner.

11 (6) (a) If a taxpayer who receives tax credits creates  
12 fewer jobs or less investment than required in the project  
13 agreement, the taxpayer shall repay the tax credits as provided in  
14 this subsection.

15 (b) If less than seventy-five percent of the required  
16 jobs in the project agreement are created, one hundred percent  
17 of the job creation tax credits shall be repaid. If seventy-five  
18 percent or more of the required jobs in the project agreement are  
19 created, no repayment of the job creation tax credits is necessary.

20 (c) If less than seventy-five percent of the required  
21 investment in the project agreement is created, one hundred percent  
22 of the investment tax credits shall be repaid. If seventy-five  
23 percent or more of the required investment in the project  
24 agreement is created, no repayment of the investment tax credits is  
25 necessary.

26 (7) For taxpayers who submitted applications for benefits  
27 under the Nebraska Advantage Rural Development Act before January

1 1, 2006, subsection (1) of this section, as such subsection existed  
2 immediately prior to such date, shall continue to apply to such  
3 taxpayers. The changes made by Laws 2005, LB 312, shall not  
4 preclude a taxpayer from receiving the tax incentives earned prior  
5 to January 1, 2006.

6 Sec. 4. Section 77-27,196.01, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8 77-27,196.01 (1) The changes made in sections 77-27,188,  
9 77-27,188.02, 77-27,190, 77-27,192, 77-27,193, and 77-27,194 by  
10 Laws 1997, LB 886, shall become operative for all credits earned in  
11 tax years beginning, or deemed to begin, on and after January 1,  
12 1998. For all credits earned in tax years beginning, or deemed to  
13 begin, prior to January 1, 1998, the provisions of the Employment  
14 Expansion and Investment Incentive Act as they existed immediately  
15 prior to such date shall apply.

16 (2) The changes made in sections 77-27,187.01 and  
17 77-27,188 by Laws 1999, LB 539, shall become operative for all  
18 credits earned in tax years beginning, or deemed to begin, on  
19 and after January 1, 1999. For all credits earned in tax years  
20 beginning, or deemed to begin, prior to January 1, 1999, the  
21 provisions of the Employment Expansion and Investment Incentive Act  
22 as they existed immediately prior to such date shall apply.

23 (3) The changes made in sections 77-27,188, 77-27,188.02,  
24 and 77-27,192 by Laws 2001, LB 169, shall become operative for  
25 all credits earned in tax years beginning, or deemed to begin, on  
26 and after January 1, 2001. For all credits earned in tax years  
27 beginning, or deemed to begin, prior to January 1, 2001, the

1 provisions of the Employment Expansion and Investment Incentive Act  
2 as they existed immediately prior to such date shall apply.

3 (4) The changes made in sections 77-27,187.01 and  
4 77-27,187.02 by this legislative bill become operative for  
5 applications filed on and after the effective date of this act. The  
6 changes made in section 77-27,188 by this legislative bill become  
7 operative for applications filed on and after July 1, 2009.

8 Sec. 5. Section 77-5701, Revised Statutes Cumulative  
9 Supplement, 2006, is amended to read:

10 77-5701 Sections 77-5701 to 77-5734 and sections 7, 12,  
11 13, and 19 of this act shall be known and may be cited as the  
12 Nebraska Advantage Act.

13 Sec. 6. Section 77-5703, Revised Statutes Cumulative  
14 Supplement, 2006, is amended to read:

15 77-5703 For purposes of the Nebraska Advantage Act, the  
16 definitions found in sections 77-5704 to 77-5721 and sections 7,  
17 12, and 13 of this act shall be used.

18 Sec. 7. County average weekly wage for any calendar year  
19 means the most recent average weekly wage paid by all employers in  
20 the county as reported by the Department of Labor by October 1 of  
21 the year prior to application.

22 Sec. 8. Section 77-5708, Revised Statutes Cumulative  
23 Supplement, 2006, is amended to read:

24 77-5708 Entitlement period, for a tier 1 or tier 3  
25 project, means the year during which the required increases in  
26 employment and investment were met or exceeded and each year  
27 thereafter until the end of the ninth year following the year of

1 application or the sixth year after the year the required increases  
2 were met or exceeded, whichever is sooner. Entitlement period,  
3 for a tier 2, tier 4, or tier 5 project, means the year during  
4 which the required increases in employment and investment were met  
5 or exceeded and each year thereafter until the end of the sixth  
6 year after the year the required increases were met or exceeded.  
7 Entitlement period, for a tier 6 project, means the year during  
8 which the required increases in employment and investment were met  
9 or exceeded and each year thereafter until the end of the ninth  
10 year after the year the required increases were met or exceeded.

11           Sec. 9. Section 77-5712, Revised Statutes Cumulative  
12 Supplement, 2006, is amended to read:

13           77-5712 Nebraska average weekly wage for any calendar  
14 year means the most recent average weekly wage paid by all  
15 employers in all counties in Nebraska as reported by the ~~prior~~  
16 October 1 by the Department of Labor by October 1 of the year prior  
17 to application.

18           Sec. 10. Section 77-5714, Revised Statutes Cumulative  
19 Supplement, 2006, is amended to read:

20           77-5714 (1) Number of new employees, for a tier 1, tier  
21 2, tier 3, or tier 4 project, means the number of equivalent  
22 employees that are employed at the project during a year that are  
23 in excess of the number of equivalent employees during the base  
24 year, not to exceed the number of equivalent employees employed at  
25 the project during a year who are not base-year employees and who  
26 are paid wages at a rate equal to at least sixty percent of the  
27 Nebraska average weekly wage for the year of application.

1           (2) Number of new employees, for a tier 6 project, means  
2 the number of equivalent employees that are employed at the project  
3 during a year that are in excess of the number of equivalent  
4 employees during the base year, not to exceed the number of  
5 equivalent employees employed at the project during a year who are  
6 not base-year employees and who are paid at a rate equal to or  
7 greater than the tier 6 weekly required compensation for the year  
8 of application.

9           (3) Teleworkers working for wages or salaries in Nebraska  
10 from their residences for a taxpayer on tasks interdependent with  
11 the work performed at the project shall be considered to be  
12 employed at the project.

13           Sec. 11. Section 77-5715, Revised Statutes Supplement,  
14 2007, is amended to read:

15           77-5715 (1) For a tier 2, tier 3, tier 4, or tier 5  
16 project, qualified business means any business engaged in:

17           (a) The conducting of research, development, or testing  
18 for scientific, agricultural, animal husbandry, food product, or  
19 industrial purposes;

20           (b) The performance of data processing,  
21 telecommunication, insurance, or financial services. For purposes  
22 of this subdivision, financial services includes only financial  
23 services provided by any financial institution subject to tax  
24 under Chapter 77, article 38, or any person or entity licensed by  
25 the Department of Banking and Finance or the federal Securities  
26 and Exchange Commission and telecommunication services includes  
27 community antenna television service, Internet access, satellite

1 ground station, data center, call center, or telemarketing;

2 (c) The assembly, fabrication, manufacture, or processing  
3 of tangible personal property;

4 (d) The administrative management of the taxpayer's  
5 activities, including headquarter facilities relating to such  
6 activities or the administrative management of any of the  
7 activities of any business entity or entities in which the taxpayer  
8 or a group of its shareholders holds any direct or indirect  
9 ownership interest of at least ten percent, including headquarter  
10 facilities relating to such activities;

11 (e) The storage, warehousing, distribution,  
12 transportation, or sale of tangible personal property;

13 (f) The sale of software development services, computer  
14 systems design, product testing services, or guidance or  
15 surveillance systems design services or the licensing of technology  
16 if the taxpayer derives at least seventy-five percent of the sales  
17 or revenue attributable to such activities relating to the project  
18 from sales or licensing either to customers who are not related  
19 persons and located outside the state or to the United States  
20 Government; ~~or~~

21 (g) The research, development, and maintenance of an  
22 Internet web portal. For purposes of this subdivision, Internet web  
23 portal means an Internet site that allows users to access, search,  
24 and navigate the Internet; or

25 ~~(g)~~ (h) Any combination of the activities listed in this  
26 subsection.

27 (2) For a tier 1 project, qualified business means any

1 business engaged in:

2 (a) The conducting of research, development, or testing  
3 for scientific, agricultural, animal husbandry, food product, or  
4 industrial purposes;

5 (b) The assembly, fabrication, manufacture, or processing  
6 of tangible personal property;

7 (c) The sale of software development services, computer  
8 systems design, product testing services, or guidance or  
9 surveillance systems design services or the licensing of technology  
10 if the taxpayer derives at least seventy-five percent of the sales  
11 or revenue attributable to such activities relating to the project  
12 from sales or licensing either to customers who are not related  
13 persons and are located outside the state or to the United States  
14 Government; or

15 (d) Any combination of activities listed in this  
16 subsection.

17 (3) For a tier 6 project, qualified business means any  
18 business except a business excluded by subsection (4) of this  
19 section.

20 ~~(3)~~ (4) Qualified business does not include any business  
21 activity in which eighty percent or more of the total sales are  
22 sales to the ultimate consumer of food prepared for immediate  
23 consumption or are sales to the ultimate consumer of tangible  
24 personal property which is not assembled, fabricated, manufactured,  
25 or processed by the taxpayer or used by the purchaser in any of the  
26 activities listed in subsection (1) or (2) of this section.

27 Sec. 12. Tier 6 weekly required compensation means two

1 hundred percent of the county average weekly wage for the county  
2 in which the project is located or one hundred fifty percent of  
3 the state average weekly wage, whichever is higher. If the project  
4 is located in more than one county, the higher county average  
5 weekly wage shall be used to determine the tier 6 weekly required  
6 compensation.

7           Sec. 13. Wages means compensation.

8           Sec. 14. Section 77-5723, Revised Statutes Cumulative  
9 Supplement, 2006, is amended to read:

10           77-5723 (1) In order to utilize the incentives set  
11 forth in the Nebraska Advantage Act, the taxpayer shall file  
12 an application, on a form developed by the Tax Commissioner,  
13 requesting an agreement with the Tax Commissioner.

14           (2) The application shall contain:

15           (a) A written statement describing the plan of employment  
16 and investment for a qualified business in this state;

17           (b) Sufficient documents, plans, and specifications as  
18 required by the Tax Commissioner to support the plan and to define  
19 a project;

20           (c) If more than one location within this state is  
21 involved, sufficient documentation to show that the employment and  
22 investment at different locations are interdependent parts of the  
23 plan. A headquarters shall be presumed to be interdependent with  
24 each other location directly controlled by such headquarters. A  
25 showing that the parts of the plan would be considered parts of  
26 a unitary business for corporate income tax purposes shall not  
27 be sufficient to show interdependence for the purposes of this

1 subdivision;

2 (d) A nonrefundable application fee of one thousand  
3 dollars for a tier 1 project, two thousand five hundred dollars for  
4 a tier 2, tier 3, or tier 5 project, ~~and~~ five thousand dollars for  
5 a tier 4 project, and ten thousand dollars for a tier 6 project.

6 The fee shall be credited to the Nebraska Advantage Fund; and

7 (e) A timetable showing the expected sales tax refunds  
8 and what year they are expected to be claimed. The timetable shall  
9 include both direct refunds due to investment and credits taken as  
10 sales tax refunds as accurately as possible.

11 The application and all supporting information shall be  
12 confidential except for the name of the taxpayer, the location of  
13 the project, the amounts of increased employment and investment,  
14 and the information required to be reported by sections 77-5731 and  
15 77-5734.

16 (3) An application must be complete to establish the date  
17 of the application. An application shall be considered complete  
18 once it contains the items listed in subsection (2) of this  
19 section, regardless of the Tax Commissioner's additional needs  
20 pertaining to information or clarification in order to approve or  
21 not approve the application.

22 (4) Once satisfied that the plan in the application  
23 defines a project consistent with the purposes stated in the  
24 Nebraska Advantage Act in one or more qualified business activities  
25 within this state, that the taxpayer and the plan will qualify for  
26 benefits under the act, and that the required levels of employment  
27 and investment for the project will be met prior to the end of the

1 fourth year after the year in which the application was submitted  
2 for a tier 1, ~~or~~ tier 3, or tier 6 project or the end of the  
3 sixth year after the year in which the application was submitted  
4 for a tier 2, tier 4, or tier 5 project, the Tax Commissioner shall  
5 approve the application.

6 (5) After approval, the taxpayer and the Tax Commissioner  
7 shall enter into a written agreement. The taxpayer shall agree  
8 to complete the project, and the Tax Commissioner, on behalf of  
9 the State of Nebraska, shall designate the approved plan of the  
10 taxpayer as a project and, in consideration of the taxpayer's  
11 agreement, agree to allow the taxpayer to use the incentives  
12 contained in the Nebraska Advantage Act. The application, and  
13 all supporting documentation, to the extent approved, shall be  
14 considered a part of the agreement. The agreement shall state:

15 (a) The levels of employment and investment required by  
16 the act for the project;

17 (b) The time period under the act in which the required  
18 levels must be met;

19 (c) The documentation the taxpayer will need to supply  
20 when claiming an incentive under the act;

21 (d) The date the application was filed; and

22 (e) A requirement that the company update the Department  
23 of Revenue annually on any changes in plans or circumstances which  
24 affect the timetable of sales tax refunds as set out in the  
25 application. If the company fails to comply with this requirement,  
26 the Tax Commissioner may defer any pending sales tax refunds until  
27 the company does comply.

1           (6) The incentives contained in section 77-5725 shall be  
2 in lieu of the tax credits allowed by the Nebraska Advantage Rural  
3 Development Act for any project. In computing credits under the  
4 act, any investment or employment which is eligible for benefits  
5 or used in determining benefits under the Nebraska Advantage Act  
6 shall be subtracted from the increases computed for determining  
7 the credits under section 77-27,188. New investment or employment  
8 at a project location that results in the meeting or maintenance  
9 of the employment or investment requirements, the creation of  
10 credits, or refunds of taxes under the Employment and Investment  
11 Growth Act shall not be considered new investment or employment  
12 for purposes of the Nebraska Advantage Act. The use of carryover  
13 credits under the Employment and Investment Growth Act, the Invest  
14 Nebraska Act, the Nebraska Advantage Rural Development Act, or the  
15 Quality Jobs Act shall not preclude investment and employment from  
16 being considered new investment or employment under the Nebraska  
17 Advantage Act. The use of property tax exemptions at the project  
18 under the Employment and Investment Growth Act shall not preclude  
19 investment not eligible for the property tax exemption from being  
20 considered new investment under the Nebraska Advantage Act.

21           (7) A taxpayer and the Tax Commissioner may enter into  
22 agreements for more than one project and may include more than  
23 one project in a single agreement. The projects may be either  
24 sequential or concurrent. A project may involve the same location  
25 as another project. No new employment or new investment shall be  
26 included in more than one project for either the meeting of the  
27 employment or investment requirements or the creation of credits.

1 When projects overlap and the plans do not clearly specify, then  
2 the taxpayer shall specify in which project the employment or  
3 investment belongs.

4 Sec. 15. Section 77-5725, Revised Statutes Supplement,  
5 2007, is amended to read:

6 77-5725 (1) Applicants may qualify for benefits under the  
7 Nebraska Advantage Act in one of ~~five~~ six tiers:

8 (a) Tier 1, investment in qualified property of at least  
9 one million dollars and the hiring of at least ten new employees.  
10 There shall be no new project applications for benefits under  
11 this tier filed on or after January 1, 2011, without further  
12 authorization of the Legislature. All complete project applications  
13 filed before January 1, 2011, shall be considered by the Tax  
14 Commissioner and approved if the project and taxpayer qualify  
15 for benefits. Agreements may be executed with regard to completed  
16 project applications filed before January 1, 2011. All project  
17 agreements pending, approved, or entered into before such date  
18 shall continue in full force and effect;

19 (b) Tier 2, investment in qualified property of at least  
20 three million dollars and the hiring of at least thirty new  
21 employees;

22 (c) Tier 3, the hiring of at least thirty new employees.  
23 There shall be no new project applications for benefits under  
24 this tier filed on or after January 1, 2011, without further  
25 authorization of the Legislature. All complete project applications  
26 filed before January 1, 2011, shall be considered by the Tax  
27 Commissioner and approved if the project and taxpayer qualify

1 for benefits. Agreements may be executed with regard to completed  
2 project applications filed before January 1, 2011. All project  
3 agreements pending, approved, or entered into before such date  
4 shall continue in full force and effect;

5 (d) Tier 4, investment in qualified property of at least  
6 ten million dollars and the hiring of at least one hundred new  
7 employees; ~~and~~

8 (e) Tier 5, investment in qualified property of at least  
9 thirty million dollars. Failure to maintain an average number of  
10 equivalent employees as defined in section 77-5727 greater than or  
11 equal to the number of equivalent employees in the base year shall  
12 result in a partial recapture of benefits; and -

13 (f) Tier 6, investment in qualified property of at least  
14 ten million dollars and the hiring of at least seventy-five new  
15 employees or the investment in qualified property of at least  
16 one hundred million dollars and the hiring of at least fifty new  
17 employees. Agreements may be executed with regard to completed  
18 project applications filed before January 1, 2016. All project  
19 agreements pending, approved, or entered into before such date  
20 shall continue in full force and effect.

21 (2) When the taxpayer has met the required levels of  
22 employment and investment contained in the agreement for a tier 1,  
23 tier 2, tier 4, ~~or~~ tier 5, or tier 6 project, the taxpayer shall be  
24 entitled to the following incentives:

25 (a) A refund of all sales and use taxes for a tier 2,  
26 tier 4, ~~or~~ tier 5, or tier 6 project or a refund of one-half of  
27 all sales and use taxes for a tier 1 project paid under the Local

1 Option Revenue Act, the Nebraska Revenue Act of 1967, and sections  
2 13-319, 13-324, and 13-2813 from the date of the application  
3 through the meeting of the required levels of employment and  
4 investment for all purchases, including rentals, of:

5 (i) Qualified property used as a part of the project;

6 (ii) Property, excluding motor vehicles, based in this  
7 state and used in both this state and another state in connection  
8 with the project except when any such property is to be used for  
9 fundraising for or for the transportation of an elected official;

10 (iii) Tangible personal property by the owner of the  
11 improvement to real estate that is incorporated into real estate as  
12 a part of a project; and

13 (iv) Tangible personal property by a contractor or  
14 repairperson after appointment as a purchasing agent of the owner  
15 of the improvement to real estate. The refund shall be based on  
16 fifty percent of the contract price, excluding any land, as the  
17 cost of materials subject to the sales and use tax; and

18 (b) A refund of all sales and use taxes for a tier 2,  
19 tier 4, ~~or tier 5,~~ or tier 6 project or a refund of one-half of  
20 all sales and use taxes for a tier 1 project paid under the Local  
21 Option Revenue Act, the Nebraska Revenue Act of 1967, and sections  
22 13-319, 13-324, and 13-2813 on the types of purchases, including  
23 rentals, listed in subdivision (a) of this subsection for such  
24 taxes paid during each year of the entitlement period in which  
25 the taxpayer is at or above the required levels of employment and  
26 investment.

27 (3) Any taxpayer who qualifies for a tier 1, tier 2,

1 tier 3, or tier 4 project shall be entitled to a credit equal to  
2 three percent times the average wage of new employees times the  
3 number of new employees if the average wage of the new employees  
4 equals at least sixty percent of the Nebraska average annual wage  
5 for the year of application. The credit shall equal four percent  
6 times the average wage of new employees times the number of new  
7 employees if the average wage of the new employees equals at least  
8 seventy-five percent of the Nebraska average annual wage for the  
9 year of application. The credit shall equal five percent times the  
10 average wage of new employees times the number of new employees  
11 if the average wage of the new employees equals at least one  
12 hundred percent of the Nebraska average annual wage for the year of  
13 application. The credit shall equal six percent times the average  
14 wage of new employees times the number of new employees if the  
15 average wage of the new employees equals at least one hundred  
16 twenty-five percent of the Nebraska average annual wage for the  
17 year of application. For computation of such credit:

18 (a) Average annual wage means the total compensation paid  
19 to employees during the year at the project who are not base-year  
20 employees and who are paid wages equal to at least sixty percent  
21 of the Nebraska average weekly wage for the year of application,  
22 excluding any compensation in excess of one million dollars paid  
23 to any one employee during the year, divided by the number of  
24 equivalent employees making up such total compensation;

25 (b) Average wage of new employees means the average  
26 annual wage paid to employees during the year at the project who  
27 are not base-year employees and who are paid wages equal to at

1 least sixty percent of the Nebraska average weekly wage for the  
2 year of application, excluding any compensation in excess of one  
3 million dollars paid to any one employee during the year; and

4 (c) Nebraska average annual wage means the Nebraska  
5 average weekly wage times fifty-two.

6 (4) (a) Any taxpayer who qualifies for a tier 6 project  
7 shall be entitled to a credit equal to ten percent times the total  
8 compensation paid to all employees, other than base year employees,  
9 excluding any compensation in excess of one million dollars paid to  
10 any one employee during the year, employed at the project.

11 (b) For purposes of this subsection:

12 (i) Average annual compensation means the total  
13 compensation paid to employees during the year at the project who  
14 are not base-year employees and who are paid at a rate equal to or  
15 greater than the tier 6 annual required compensation for the year  
16 of application, excluding any compensation in excess of one million  
17 dollars for any one employee in a year, divided by the number of  
18 equivalent employees making up such total compensation; and

19 (ii) Tier 6 annual required compensation means the tier 6  
20 weekly required compensation times fifty-two.

21 ~~(4)~~ (5) Any taxpayer who has met the required levels of  
22 employment and investment for a tier 2 or tier 4 project shall  
23 receive a credit equal to ten percent of the investment made in  
24 qualified property at the project. Any taxpayer who has met the  
25 required levels of investment and employment for a tier 1 project  
26 shall receive a credit equal to three percent of the investment  
27 made in qualified property at the project. Any taxpayer who has

1 met the required levels of investment and employment for a tier  
2 6 project shall receive a credit equal to fifteen percent of the  
3 investment made in qualified property at the project.

4 ~~(5)~~ (6) The credits prescribed in subsections ~~(3)~~ and  
5 ~~(4)~~ (3), (4), and (5) of this section shall be allowable for  
6 compensation paid and investments made during each year of the  
7 entitlement period that the taxpayer is at or above the required  
8 levels of employment and investment.

9 ~~(6)~~ (7) The credit prescribed in subsection ~~(4)~~ (5) of  
10 this section shall also be allowable during the first year of  
11 the entitlement period for investment in qualified property at the  
12 project after the date of the application and before the required  
13 levels of employment and investment were met.

14 ~~(7)(a)~~ (8)(a) A taxpayer who has met the required levels  
15 of employment and investment for a tier 4 or tier 6 project shall  
16 receive the incentive provided in this subsection. Such investment  
17 and hiring of new employees shall be considered a required level of  
18 investment and employment for this subsection and for the recapture  
19 of benefits under this subsection only.

20 (b) The following property used in connection with such  
21 project or projects and acquired by the taxpayer, whether by  
22 lease or purchase, after the date the application was filed shall  
23 constitute separate classes of personal property:

24 (i) Turbine-powered aircraft, including turboprop,  
25 turbojet, and turbofan aircraft, except when any such aircraft is  
26 used for fundraising for or for the transportation of an elected  
27 official;

1           (ii) Computer systems, made up of equipment that is  
2 interconnected in order to enable the acquisition, storage,  
3 manipulation, management, movement, control, display, transmission,  
4 or reception of data involving computer software and hardware, used  
5 for business information processing which require environmental  
6 controls of temperature and power and which are capable of  
7 simultaneously supporting more than one transaction and more than  
8 one user. A computer system includes peripheral components which  
9 require environmental controls of temperature and power connected  
10 to such computer systems. Peripheral components shall be limited to  
11 additional memory units, tape drives, disk drives, power supplies,  
12 cooling units, data switches, and communication controllers;

13           (iii) Depreciable personal property used for a  
14 distribution facility, including, but not limited to, storage  
15 racks, conveyor mechanisms, forklifts, and other property used to  
16 store or move products; and

17           (iv) Personal property which is business equipment  
18 located in a single project if the business equipment is involved  
19 directly in the manufacture or processing of agricultural products;  
20 and -

21           (v) For a tier 6 project, any other personal property  
22 located at the project.

23           (c) Such property shall be eligible for exemption from  
24 the tax on personal property from the first January 1 following the  
25 date of acquisition for property in subdivision ~~(7)(b)(i)~~ (8)(b)(i)  
26 of this section, or from the first January 1 following the end  
27 of the year during which the required levels were exceeded for

1 property in subdivisions ~~(7)(b)(ii)~~, ~~(iii)~~, and ~~(iv)~~ (8)(b)(ii),  
2 (iii), (iv), and (v) of this section, through the ninth December  
3 31 after the first year any property included in subdivisions  
4 ~~(7)(b)(ii)~~, ~~(iii)~~, and ~~(iv)~~ (8)(b)(ii), (iii), (iv), and (v) of  
5 this section qualifies for the exemption. In order to receive the  
6 property tax exemptions allowed by subdivisions ~~(7)(b)(i)~~, ~~(ii)~~,  
7 ~~(iii)~~, and ~~(iv)~~ subdivision (8)(b) of this section, the taxpayer  
8 shall annually file a claim for exemption with the Tax Commissioner  
9 on or before May 1. The form and supporting schedules shall be  
10 prescribed by the Tax Commissioner and shall list all property  
11 for which exemption is being sought under this section. A separate  
12 claim for exemption must be filed for each project and each county  
13 in which property is claimed to be exempt. A copy of this form  
14 must also be filed with the county assessor in each county in  
15 which the applicant is requesting exemption. The Tax Commissioner  
16 shall determine the eligibility of each item listed for exemption  
17 and, on or before August 10, certify such to the taxpayer and to  
18 the affected county assessor. In determining the eligibility of  
19 items of personal property for exemption, the Tax Commissioner is  
20 limited to the question of whether the property claimed as exempt  
21 by the taxpayer falls within the classes of property described in  
22 subdivision ~~(7)(b)~~ (8)(b) of this section. The determination of  
23 whether a taxpayer is eligible to obtain exemption for personal  
24 property based on meeting the required levels of investment and  
25 employment is the responsibility of the Tax Commissioner.

26 ~~(8)~~ (9) The investment thresholds in this section for  
27 a particular year of application shall be adjusted by the method

1 provided in this subsection. Beginning October 1, 2006, and each  
2 October 1 thereafter, the Producer Price Index for all commodities,  
3 published by the United States Department of Labor, Bureau of Labor  
4 Statistics, for the most recent available period shall be divided  
5 by the Producer Price Index for the first quarter of 2006 and  
6 the result multiplied by the applicable investment threshold. The  
7 investment thresholds shall be adjusted for cumulative inflation  
8 since 2006. If the resulting amount is not a multiple of one  
9 million dollars, the amount shall be rounded to the next lowest  
10 one million dollars. The investment thresholds established by this  
11 subsection apply for purposes of project qualifications for all  
12 applications filed on or after January 1 of the following year  
13 for all years of the project. Adjustments do not apply to projects  
14 after the year of application.

15           Sec. 16. Section 77-5726, Revised Statutes Cumulative  
16 Supplement, 2006, is amended to read:

17           77-5726 (1) (a) The credits prescribed in section 77-5725  
18 shall be established by filing the forms required by the Tax  
19 Commissioner with the income tax return for the year. The credits  
20 may be used and shall be applied in the order in which they  
21 were first allowed. The credits may be used after any other  
22 nonrefundable credits to reduce the taxpayer's income tax liability  
23 imposed by sections 77-2714 to 77-27,135. Any decision on how part  
24 of the credit is applied shall not limit how the remaining credit  
25 could be applied under this section.

26           (b) The taxpayer may use the credit provided in  
27 ~~subsection (3)~~ subsections (3) and (4) of section 77-5725 to

1 reduce the taxpayer's income tax withholding employer or payor  
2 tax liability under section 77-2756 or 77-2757 to the extent such  
3 liability is attributable to the number of new employees at the  
4 project. To the extent of the credit used, such withholding shall  
5 not constitute public funds or state tax revenue and shall not  
6 constitute a trust fund or be owned by the state. The use by the  
7 taxpayer of the credit shall not change the amount that otherwise  
8 would be reported by the taxpayer to the employee under section  
9 77-2754 as income tax withheld and shall not reduce the amount that  
10 otherwise would be allowed by the state as a refundable credit  
11 on an employee's income tax return as income tax withheld under  
12 section 77-2755.

13           The amount of credits used against income tax withholding  
14 shall not exceed the withholding attributable to new employees at  
15 the project. If the amount of credit used by the taxpayer against  
16 income tax withholding exceeds this amount, the excess withholding  
17 shall be returned to the Department of Revenue in the manner  
18 provided in section 77-2756, such excess amount returned shall be  
19 considered unused, and the amount of unused credits may be used  
20 as otherwise permitted in this section or shall carry over to the  
21 extent authorized in subdivision (1)(d) of this section.

22           (c) Credits may be used to obtain a refund of sales and  
23 use taxes under the Local Option Revenue Act, the Nebraska Revenue  
24 Act of 1967, and sections 13-319, 13-324, and 13-2813 which are not  
25 otherwise refundable that are paid on purchases, including rentals,  
26 for use at the project for a tier 1, tier 2, tier 3, or tier 4  
27 project or for use within this state for a tier 6 project.

1           (d) The credits earned for a tier 6 project may be used  
2 to obtain a payment from the state equal to the real property  
3 taxes due after the year the required levels of employment and  
4 investment were met and before the end of the carryover period,  
5 for real property that is included in such project and acquired  
6 by the taxpayer, whether by lease or purchase, after the date the  
7 application was filed. The payment from the state shall be made  
8 only after payment of the real property taxes have been made to the  
9 county as required by law. Payments shall not be allowed for any  
10 taxes paid on real property for which the taxes are divided under  
11 section 18-2147 or 58-507.

12           ~~(d)~~ (e) Credits may be carried over until fully utilized,  
13 except that such credits may not be carried over more than nine  
14 years after the year of application for a tier 1 or tier 3 project,  
15 or fourteen years after the year of application for a tier 2  
16 or tier 4 project, or more than one year past the end of the  
17 entitlement period for a tier 6 project.

18           (2)(a) No refund claims shall be filed until after the  
19 required levels of employment and investment have been met.

20           (b) Refund claims shall be filed no more than once each  
21 quarter for refunds under the Nebraska Advantage Act, except that  
22 any claim for a refund in excess of twenty-five thousand dollars  
23 may be filed at any time.

24           (c) Any refund claim for sales and use taxes on materials  
25 incorporated into real estate as a part of the project shall be  
26 filed by and the refund paid to the owner of the improvement  
27 to real estate. A refund claim for such materials purchased

1 by a purchasing agent shall include a copy of the purchasing  
2 agent appointment, the contract price, and a certification by  
3 the contractor or repairperson of the percentage of the materials  
4 incorporated into the project on which sales and use taxes were  
5 paid to Nebraska after appointment as purchasing agent.

6 (d) All refund claims shall be filed, processed, and  
7 allowed as any other claim under section 77-2708, except that  
8 the amounts allowed to be refunded under the Nebraska Advantage  
9 Act shall be deemed to be overpayments and shall be refunded  
10 notwithstanding any limitation in subdivision (2)(a) of section  
11 77-2708. The refund may be allowed if the claim is filed within  
12 three calendar years from the end of the year the required levels  
13 of employment and investment are met or within the period set forth  
14 in section 77-2708.

15 (e) If a claim for a refund of sales and use taxes  
16 under the Local Option Revenue Act or sections 13-319, 13-324, and  
17 13-2813 of more than twenty-five thousand dollars is filed by June  
18 15 of a given year, the refund shall be made on or after November  
19 15 of the same year. If such a claim is filed on or after June  
20 16 of a given year, the refund shall not be made until on or  
21 after November 15 of the following year. The Tax Commissioner shall  
22 notify the affected city, village, county, or municipal county of  
23 the amount of refund claims of sales and use taxes under the Local  
24 Option Revenue Act or sections 13-319, 13-324, and 13-2813 that are  
25 in excess of twenty-five thousand dollars on or before July 1 of  
26 the year before the claims will be paid under this section.

27 (f) Interest shall not be allowed on any sales and use

1 taxes refunded under the Nebraska Advantage Act.

2 (3) The appointment of purchasing agents shall be  
3 recognized for the purpose of changing the status of a contractor  
4 or repairperson as the ultimate consumer of tangible personal  
5 property purchased after the date of the appointment which is  
6 physically incorporated into the project and becomes the property  
7 of the owner of the improvement to real estate. The purchasing  
8 agent shall be jointly liable for the payment of the sales and use  
9 tax on the purchases with the owner of the improvement to real  
10 estate.

11 (4) A determination that a taxpayer is not engaged in a  
12 qualified business or has failed to meet or maintain the required  
13 levels of employment or investment for incentives, exemptions, or  
14 recapture may be protested to the Tax Commissioner within thirty  
15 days after the written determination by the Department of Revenue.  
16 The Tax Commissioner shall issue a written order resolving such  
17 protests. The determination of the Tax Commissioner may be appealed  
18 to the district court of Lancaster County within thirty days after  
19 the issuance of the order.

20 Sec. 17. Section 77-5727, Revised Statutes Cumulative  
21 Supplement, 2006, is amended to read:

22 77-5727 (1)(a) If the taxpayer fails either to meet the  
23 required levels of employment or investment for the applicable  
24 project by the end of the fourth year after the end of the year  
25 the application was submitted for a tier 1, ~~or tier 3,~~ or tier  
26 6 project or by the end of the sixth year after the end of the  
27 year the application was submitted for a tier 2, tier 4, or tier

1 5 project or to utilize such project in a qualified business at  
2 employment and investment levels at or above those required in the  
3 agreement for the entire entitlement period, all or a portion of  
4 the incentives set forth in the Nebraska Advantage Act shall be  
5 recaptured or disallowed.

6 (b) In the case of a taxpayer who has failed to meet  
7 the required levels of investment or employment within the required  
8 time period, all reduction in the personal property tax because of  
9 the act shall be recaptured.

10 (2) In the case of a taxpayer who has failed to maintain  
11 the project at the required levels of employment or investment  
12 for the entire entitlement period, any reduction in the personal  
13 property tax, any refunds in tax allowed under subsection (2)  
14 of section 77-5725, and any refunds or reduction in tax allowed  
15 because of the use of a credit allowed under ~~subsection (7)~~ of  
16 section 77-5725 shall be partially recaptured from either the  
17 taxpayer or the owner of the improvement to real estate and any  
18 carryovers of credits shall be partially disallowed. One-seventh  
19 of the refunds, one-seventh of the reduction in personal property  
20 tax, and one-seventh of the credits used shall be recaptured and  
21 one-seventh of the remaining carryovers and the last remaining year  
22 of personal property tax exemption shall be disallowed for each  
23 year the taxpayer did not maintain such project at or above the  
24 required levels of employment or investment.

25 (3) In the case of a taxpayer qualified under tier  
26 5 who has failed to maintain the average number of equivalent  
27 employees at the project at the end of the six years following

1 the year the taxpayer attained the required amount of investment,  
2 any refunds in tax allowed under subdivision (2)(a) of section  
3 77-5725 shall be partially recaptured from the taxpayer. The amount  
4 of recapture shall be the total amount of refunds allowed for  
5 all years times the reduction in the average number of equivalent  
6 employees employed at the end of the entitlement period from the  
7 number of equivalent employees employed in the base year divided  
8 by the number of equivalent employees employed in the base year.  
9 For purposes of this subsection, the average number of equivalent  
10 employees shall be calculated at the end of the entitlement period  
11 by adding the number of equivalent employees in the year the  
12 taxpayer attains the required level of investment and each of the  
13 next following six years and dividing the result by seven.

14 (4) If the taxpayer receives any refunds or reduction  
15 in tax to which the taxpayer was not entitled or which were in  
16 excess of the amount to which the taxpayer was entitled, the refund  
17 or reduction in tax shall be recaptured separate from any other  
18 recapture otherwise required by this section. Any amount recaptured  
19 under this subsection shall be excluded from the amounts subject to  
20 recapture under other subsections of this section.

21 (5) Any refunds or reduction in tax due, to the extent  
22 required to be recaptured, shall be deemed to be an underpayment of  
23 the tax and shall be immediately due and payable. When tax benefits  
24 were received in more than one year, the tax benefits received  
25 in the most recent year shall be recovered first and then the  
26 benefits received in earlier years up to the extent of the required  
27 recapture.

1           (6) Any personal property tax that would have been due  
2 except for the exemption allowed under the Nebraska Advantage  
3 Act, to the extent it becomes due under this section, shall be  
4 considered delinquent and shall be immediately due and payable to  
5 the county or counties in which the property was located when  
6 exempted. All amounts received by a county under this section shall  
7 be allocated to each taxing unit levying taxes on tangible personal  
8 property in the county in the same proportion that the levy on  
9 tangible personal property of such taxing unit bears to the total  
10 levy of all of such taxing units.

11           (7) Notwithstanding any other limitations contained in  
12 the laws of this state, collection of any taxes deemed to be  
13 underpayments by this section shall be allowed for a period of  
14 three years after the end of the entitlement period.

15           (8) Any amounts due under this section shall be  
16 recaptured notwithstanding other allowable credits and shall not be  
17 subsequently refunded under any provision of the Nebraska Advantage  
18 Act unless the recapture was in error.

19           (9) The recapture required by this section shall not  
20 occur if the failure to maintain the required levels of employment  
21 or investment was caused by an act of God or national emergency.

22           Sec. 18. Section 77-5731, Revised Statutes Cumulative  
23 Supplement, 2006, is amended to read:

24           77-5731 (1) The Tax Commissioner shall submit an annual  
25 report to the Legislature no later than July 15 of each year.

26           (2) The report shall list (a) the agreements which have  
27 been signed during the previous calendar year, (b) the agreements

1 which are still in effect, (c) the identity of each taxpayer who is  
2 party to an agreement, and (d) the location of each project.

3 (3) The report shall also state, for taxpayers who are  
4 parties to agreements, by industry group (a) the specific incentive  
5 options applied for under the Nebraska Advantage Act, (b) the  
6 refunds allowed on the investment, (c) the credits earned, (d) the  
7 credits used to reduce the corporate income tax and the credits  
8 used to reduce the individual income tax, (e) the credits used  
9 to obtain sales and use tax refunds, (f) the credits used against  
10 withholding liability, (g) the number of jobs created under the  
11 act, (h) the total number of employees employed in the state on the  
12 last day of the calendar quarter prior to the application date and  
13 the total number of employees employed in the state on subsequent  
14 reporting dates, (i) the expansion of capital investment, (j) the  
15 estimated wage levels of jobs created under the act subsequent to  
16 the application date, (k) the total number of qualified applicants,  
17 (l) the projected future state revenue gains and losses, (m) the  
18 sales tax refunds owed, (n) the credits outstanding under the act,  
19 and (o) the value of personal property exempted by class in each  
20 county under the act, (p) the value of property for which payments  
21 equal to property taxes paid were allowed in each county, and (q)  
22 the total amount of the payments.

23 (4) In estimating the projected future state revenue  
24 gains and losses, the report shall detail the methodology utilized,  
25 state the economic multipliers and industry multipliers used to  
26 determine the amount of economic growth and positive tax revenue,  
27 describe the analysis used to determine the percentage of new jobs

1 attributable to the Nebraska Advantage Act assumption, and identify  
2 limitations that are inherent in the analysis method.

3 (5) The report shall provide an explanation of the audit  
4 and review processes of the Department of Revenue in approving and  
5 rejecting applications or the grant of incentives and in enforcing  
6 incentive recapture. The report shall also specify the median  
7 period of time between the date of application and the date the  
8 agreement is executed for all agreements executed by December 31 of  
9 the prior year.

10 (6) The report shall provide information on  
11 project-specific total incentives used every two years for  
12 each approved project. The report shall disclose (a) the identity  
13 of the taxpayer, (b) the location of the project, and (c) the total  
14 credits used and refunds approved during the immediately preceding  
15 two years expressed as a single, aggregated total. The incentive  
16 information required to be reported under this subsection shall not  
17 be reported for the first year the taxpayer attains the required  
18 employment and investment thresholds. The information on first-year  
19 incentives used shall be combined with and reported as part of the  
20 second year. Thereafter, the information on incentives used for  
21 succeeding years shall be reported for each project every two years  
22 containing information on two years of credits used and refunds  
23 approved. The incentives used shall include incentives which have  
24 been approved by the department, but not necessarily received,  
25 during the previous two calendar years.

26 (7) The report shall include an executive summary which  
27 shows aggregate information for all projects for which the

1 information on incentives used in subsection (6) of this section  
2 is reported as follows: (a) The total incentives used by all  
3 taxpayers for projects detailed in subsection (6) of this section  
4 during the previous two years; (b) the number of projects; (c)  
5 the total number of employees of these taxpayers employed in  
6 the state on the last day of the calendar quarter prior to the  
7 application date, the new jobs at the project for which credits  
8 have been granted, and the total number of employees employed in  
9 the state by these taxpayers on subsequent reporting dates; (d) the  
10 average compensation paid employees in the state in the year of  
11 application and for the new jobs at the project; and (e) the total  
12 investment for which incentives were granted. The executive summary  
13 shall summarize the number of states which grant investment tax  
14 credits, job tax credits, sales and use tax refunds for qualified  
15 investment, and personal property tax exemptions and the investment  
16 and employment requirements under which they may be granted.

17 (8) No information shall be provided in the report that  
18 is protected by state or federal confidentiality laws.

19 Sec. 19. The changes made in sections 77-5703, 77-5708,  
20 77-5712, 77-5714, 77-5715, 77-5723, 77-5725, 77-5726, 77-5727, and  
21 77-5731 by this legislative bill and sections 7, 12, and 13 of  
22 this act apply to all applications filed on and after the effective  
23 date of this act. For all applications filed prior to such date,  
24 the provisions of the Nebraska Advantage Act as they existed  
25 immediately prior to such date apply.

26 Sec. 20. Original section 77-27,196.01, Reissue Revised  
27 Statutes of Nebraska, sections 77-5701, 77-5703, 77-5708,

1 77-5712, 77-5714, 77-5723, 77-5726, 77-5727, and 77-5731, Revised  
2 Statutes Cumulative Supplement, 2006, and sections 77-27,187.01,  
3 77-27,187.02, 77-27,188, 77-5715, and 77-5725, Revised Statutes  
4 Supplement, 2007, are repealed.

5           Sec. 21. Since an emergency exists, this act takes effect  
6 when passed and approved according to law.

7           2. On page 1, strike beginning with "sections" in  
8 line 1 through line 9 and insert "section 77-27,196.01, Reissue  
9 Revised Statutes of Nebraska, sections 77-5701, 77-5703, 77-5708,  
10 77-5712, 77-5714, 77-5723, 77-5726, 77-5727, and 77-5731, Revised  
11 Statutes Cumulative Supplement, 2006, and sections 77-27,187.01,  
12 77-27,187.02, 77-27,188, 77-5715, and 77-5725, Revised Statutes  
13 Supplement, 2007; to change provisions of certain tax incentive  
14 laws; to define and redefine terms; to provide a fee; to provide  
15 for applicability; to harmonize provisions; to repeal the original  
16 sections; and to declare an emergency."